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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/643,816	08/18/2003	Jean-Aicard Fabien	CE11375R	4784
23330	7590	02/27/2006	EXAMINER	
MOTOROLA, INC. LAW DEPARTMENT 1303 E. ALGONQUIN ROAD SCHAUMBURG, IL 60196				FOX, BRYAN J
			ART UNIT	PAPER NUMBER
				2686

DATE MAILED: 02/27/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/643,816	FABIEN ET AL.
	Examiner	Art Unit
	Bryan J. Fox	2686

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 22 November 2005.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1,3,4,6-14,23 and 27-35 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) 7 and 35 is/are allowed.
- 6) Claim(s) 1,3,4,6,8-14,23 and 27-34 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. _____
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	6) <input type="checkbox"/> Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 1 and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al (US 20030134655A1) in view of Terry (US 20040116125A1).

Regarding **claim 1**, Chen et al disclose a power control method in a point-to multipoint service (see paragraphs 22-23), which reads on the claimed, "power allocation and user assignment method for multimedia broadcast multicast services in a mobile communication system." There may be a field indicating the strength or quality of both the forward link broadcast channel and the pilot channel (see paragraph 81), which reads on the claimed, "transmitting a pilot signal to a plurality of user equipments; receiving requests for MBMS services from a first portion of the plurality of user

equipments, the requests including signals indicating a strength of the pilot signal at each of the first portion of the plurality of user equipments.” The sector adjusts the forward link shared channel to satisfy the power requirement of the subscriber station which reports the worst forward link quality metric (see paragraph 66), which reads on the claimed, “sorting each of the plurality of the first portion of user equipments by the signals indicating the strength of the pilot signal thereat.” A user accesses the system via an access probe, and base stations transmit the received information on a forward shared channel to the users in the group that are assigned to monitor the channel (see paragraphs 49-51), which reads on the claimed, “determining a number of particular user equipments of the first portion of the plurality of user equipments to support on a broadcast channel; and assigning a second portion of the plurality of user equipments, which are the particular user equipments one through k of the first portion of the plurality of user equipments, to the broadcast channel.” Chen et al fails to expressly disclose that the second portion of the plurality of user equipments is smaller than the first portion of the plurality of user equipments.

In a similar field of endeavor, Terry discloses that under certain circumstances, it may be desirable to use both shared and dedicated channels to support an MBMS, for example, many WRTUs may be located together, such as at a train station, and a few or a single WTRU may be outside of the train station. In that situation, the most efficient use of cell resources to support the MBMS may be to allocate a shared channel to the train station and a dedicated channel to the other WTRU (see paragraph 19), which

reads on the claimed, "the second portion of the plurality of user equipments is smaller than the first portion of the plurality of user equipments."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Chen et al with Terry to include the above use of both dedicated and shared channels in order to provide efficient use of cell resources as suggested by Terry (see paragraph 19).

Regarding claim 14, the combination of Chen et al and Terry discloses the steps of transmitting, receiving, sorting, determining a number and assigning (see Chen et al paragraphs 49-51, 66 and 81), and that there are MBMS services provided after these steps (see Chen et al paragraphs 65-68), which reads on the claimed invention where the steps are performed prior to providing MBMS services.

Claims 3 and 4 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al in view of Terry as applied to claim 1 above, and further in view of what was well known in the art (see MPEP 2144.03).

Regarding **claim 3**, the combination of Chen et al and Terry disclose that a control unit may be located at the individual sector or at the controller and determines the transmit level (see Chen et al paragraph 65) and the quality information may be the signal strength or quality of both the pilot channel and the forward link broadcast channel. The combination of Chen et al and Terry fails to expressly disclose using a signal/noise ratio of the pilot signal.

The examiner takes official notice that it was well known in the art at the time of the invention to use the signal/noise ratio of the pilot signal.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Chen et al and Terry to use the signal to interference and noise ratio of the pilot signal in order to use specify the quality metric of the pilot signal to use.

Regarding **claim 4**, as applied to claim 3, the combination of Chen et al, Terry and what was known in the art further discloses that each sector receives feedback information from the member subscriber stations in the sector's coverage area and adjusts the transmit level to ensure that the desired quality of service is delivered to all the member subscriber stations by determining the transmit level (see Chen et al paragraph 65), which reads on the claimed, "determining an area coverage threshold in accordance with the particular user equipment based upon location and channel conditions of the particular user equipment within a cell of the mobile communication system," wherein determining the transmit level directly determines the area coverage threshold.

Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al in view of Terry and what was well known in the art, and further in view of Kitazawa et al (US20020037729A1).

Regarding **claim 6**, the combination of Chen et al and Terry fails to expressly disclose the step of sorting includes the step of sorting each of the first portion of the

plurality of user equipments by the S/N value of the pilot signal from a strongest pilot signal to a weakest pilot signal.

In a similar field of endeavor, Kitazawa et al disclose a system that sorts the mobiles by the order of the receiving signal-to-noise ratio to determine an assignment order (see paragraph 67).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Chen et al with Kitazawa et al to include the above sorting by S/N of the pilot signal in order to preferentially communicate data to devices with better quality and raise throughput as suggested by Kitazawa et al (see paragraph 17).

Regarding **claim 8**, Chen et al discloses assigning users to the broadcast channel (see paragraph 50). Chen et al fails to disclose assigning each of the plurality of user equipments ranked 1 through k by the strength of the pilot signal beginning with the strongest pilot signal.

In a similar field of endeavor, Kitazawa et al disclose a system that sorts the mobiles by the order of the receiving signal-to-noise ratio to determine an assignment order (see paragraph 67).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Chen et al with Kitazawa et al to include the above assigning in order to preferentially communicate data to devices with better quality and raise throughput as suggested by Kitazawa et al (see paragraph 17).

Claims 9-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al in view of Terry, what was well-known in the art and Kitazawa et al, as applied to claim 1 above, and further in view of Sinnarajah.

Regarding **claim 9**, the combination of Chen et al, Terry and Kitazawa et al fails to disclose determining whether a total number of the plurality of user equipments requesting MBMS service is greater than K; and if the total number is greater than K, assigning by the RNC user equipments K+1 through the total number of the plurality of user equipments to dedicated channels.

In a similar field of endeavor, Sinnarajah et al disclose a system where when a station travels outside the range of a base station providing the content to a number of subscriber stations, another base station provides the content over an individual channel (see paragraphs 87-90), which reads on the claimed, "determining which of the first portion of the plurality of user equipments requesting MBMS are included in the second portion of the plurality of user equipments; and assigning user equipments K+1 through the total number of the first portion of the plurality of user equipments to dedicated channels," wherein the number of subscriber stations at the original base station is K and the subscriber at the new base station on an individual channel is K+1.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Chen et al, Terry and Kitazawa et al with Sinnarajah et al to include the above use of shared and individual channels in order to conserve power as suggested by Sinnarajah et al (see paragraph 86).

Regarding **claim 10**, the combination of Chen et al, Terry and Kitazawa et al discloses that a control unit may be located at the individual sector or at the controller and determines the transmit level (see Chen et al paragraph 65). The combination of Chen et al and Kitazawa et al fails to expressly disclose setting a new area coverage threshold corresponding to the S/N of the pilot signal of the number K of the particular user equipment.

In a similar field of endeavor, Sinnarajah et al disclose that a base station receives a pilot strength report message indicating that the subscriber station is receiving stronger signals from another base station and the new base station provides the broadcast information while the old base station stops transmission (see paragraphs 96-98), which reads on the claimed, "setting a new coverage threshold," wherein the broadcast being provided in a new area or not being provided in an old area implies the coverage has changed.

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Chen et al, Terry and Kitazawa et al with Sinnarajah et al to include the above changing of the coverage area in order to conserve power as suggested by Sinnarajah et al (see paragraph 86).

Regarding **claim 11**, the combination of Chen et al, Terry, Kitazawa et al and Sinnarajah et al discloses that the base station periodically decreases the forward link shared channel transmit power level by a first amount if the sector does not receive a feedback message from a member subscriber requesting power increase (see Chen et al paragraph 82), which reads on the claimed, "maintaining a power of the broadcast

channel for the new area coverage threshold which is less than a maximum power allocated to the broadcast channel for MBMS services.”

Regarding **claim 12**, the combination of Chen et al, Terry, Kitazawa et al and Sinnarajah et al inherently provides support for the power available being the maximum power less the power allocated to the subscribers as a person of ordinary skill in the art would recognize that there is a limit to the amount of power a base station can produce and the maximum power would be equal to the power used plus the power available.

Regarding **claim 13**, the combination of Chen et al, Terry, Kitazawa et al and Sinnarajah et al disclose the transmit level is controlled based on feedback from the users (see Chen et al paragraph 65), which reads on the claimed, “transmitting the new area coverage threshold to the second portion of the plurality of user equipments,” wherein changing the transmit level of the base station changes the area coverage threshold.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Sinnarajah et al (US 20040203336A1) in view of Yano et al (US005870393A) and Chen et al.

Regarding **claim 23**, Sinnarajah et al disclose that a base station receives a request from a subscriber station to continue receiving the same broadcast content (see paragraph 90), which reads on the claimed, “power allocation and user assignment method for multimedia broadcast multicast services on a broadcast channel and a dedicated channel in a mobile communication system,” and, “during an MBMS

broadcast, receiving a request from one user equipment of a plurality of user equipments for connection to a MBMS broadcast channel.” The base station connects the subscriber unit to either a shared broadcast channel or an individual broadcast channel in order to conserve power, for example (see paragraph 86), which reads on the claimed, “determining a first power requirement for the one user equipment on the dedicated channel; determining a second power requirement required for the one user equipment on the MBMS broadcast channel; determining whether the first power requirement is smaller than the second power requirement; assigning the one user equipment to the dedicated channel or the MBMS broadcast channel in response to...a first channel power of the dedicated channel, a second channel power of the MBMS broadcast channel and whether the first power requirement is smaller than the second power requirement.” Sinnarajah et al disclose transmitting a power strength report message from the subscriber station (see paragraph 96), however, Sinnarajah et al fail to expressly disclose transmitting a signal/noise of a pilot signal by the one user equipment to the mobile communication system.

In a similar field of endeavor, Yano et al disclose a terminal measuring the signal-to-noise ratio on the basis of the received power of the pilot signal and transmitting this to the base station (see column 9, lines 36-47).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Sinnarajah et al with Yano et al to include the above use of the signal-to-noise ratio of the pilot signal in order to assure the communication quality of each terminal as suggested by Yano et al (see column 6, lines 9-36). The combination

of Sinnarajah et al and Yano et al fails to expressly disclose increasing the second channel power of the MBMS broadcast channel to encompass a new area coverage threshold in response to the one user equipment being assigned to the MBMS broadcast channel.

In a similar field of endeavor, Chen et al discloses that the power is adjusted to satisfy the requirement of the subscriber station that reports the worst quality metric (see paragraph 66), which reads on the claimed, "increasing the second channel power of the MBMS broadcast channel to encompass a new area coverage threshold in response to the one user equipment being assigned to the MBMS broadcast channel and second power being available and the one user equipment being outside an area coverage threshold for the MBMS broadcast channel for the one user equipment, where the second channel power is increased according to $Pb(K)=Pb(K)+Pdb(i)$ wherein $Pb(k)$ is the second channel power of the MBMS broadcast channel to support users K and $Pdb(i)$ is the additional power requirement of the MBMS broadcast channel to support user I and broadcasting the new area coverage threshold for the MBMS broadcast channel to the plurality of user equipments."

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Sinnarajah et al and Yano et al with Chen et al to include the above increasing of power in order to adequately cover all stations while minimizing interference.

Claims 27 and 31-34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinnarajah et al in view of McGowan et al (US 20040106423A1).

Regarding **claim 27**, Sinnarajah et al disclose that a base station receives a request from a subscriber station to continue receiving the same broadcast content (see paragraph 90), which reads on the claimed, “power allocation and user assignment method for multimedia broadcast multicast services in a mobile communication system between one user equipment of a plurality of user equipments and a radio network controller,” and, “requesting coupling to the MBMS services.” The base station connects the subscriber unit to either a shared broadcast channel or an individual broadcast channel in order to conserve power, for example (see paragraph 86). Sinnarajah et al disclose transmitting a power strength report message of the pilot signal from the subscriber station (see paragraph 96), which reads on the claimed, “receiving a pilot signal.” Sinnarajah et al fail to expressly disclose measuring a signal/noise of a pilot signal by the one user equipment to the mobile communication system.

In a similar field of endeavor, McGowan et al disclose that a mobile station compares the signal-to-noise ratio measured for a received signal to the signal-to-noise of a threshold (see paragraph 32), and an initial signal-to-noise threshold value can be transmitted to the mobile station via the BTS (see paragraph 42).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Sinnarajah et al with McGowan et al to include the above comparing of signal-to-noise ratio at the mobile station and transmitting of a threshold to

the user in order to improve the power control as suggested by McGowan et al (see paragraph 9). The resultant combination of Sinnarajah et al and McGowan reads on the claimed, "measuring a signal/noise value of the pilot signal as received by the one user equipment; receiving a signal/noise value of a coverage threshold for the MBMS services; and determining whether the S/N value of the pilot signal measured by the one user equipment is less than the S/N value of the coverage threshold.

Regarding **claim 31**, Sinnarajah et al disclose that a base station receives a request from a subscriber station to continue receiving the same broadcast content (see paragraph 90), which reads on the claimed, "power allocation and user assignment method for multimedia broadcast multicast services in a mobile communication system between one user equipment of a plurality of user equipments and a radio network controller," and, "receiving a request from one of the plurality of user equipments to couple to the MBMS services." The base station connects the subscriber unit to either a shared broadcast channel or an individual broadcast channel in order to conserve power, for example (see paragraph 86). Sinnarajah et al disclose transmitting a power strength report message of the pilot signal from the subscriber station (see paragraph 96), which reads on the claimed, "transmitting a pilot signal to the one of the plurality of user equipments." Sinnarajah et al fail to expressly disclose measuring a signal/noise of a pilot signal by the one user equipment to the mobile communication system.

In a similar field of endeavor, McGowan et al disclose that a mobile station compares the signal-to-noise ratio measured for a received signal to the signal-to-noise

of a threshold (see paragraph 32), and an initial signal-to-noise threshold value can be transmitted to the mobile station via the BTS (see paragraph 42).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Sinnarajah et al with McGowan et al to include the above comparing of signal-to-noise ratio at the mobile station and transmitting of a threshold to the user in order to improve the power control as suggested by McGowan et al (see paragraph 9). The resultant combination of Sinnarajah et al and McGowan reads on the claimed, "transmitting a signal/noise value of a coverage threshold for the MBMS services; receiving a S/N value of the pilot signal as measured by the one of the plurality of user equipments; and assigning one of the plurality of user equipments to a broadcast channel or a dedicated channel in response to the S/N value of the pilot signal as measured by the one of the plurality of user equipments."

Regarding **claim 32**, Sinnarajah et al disclose the base station connects the subscriber unit to either a shared broadcast channel or an individual broadcast channel in order to conserve power, for example (see paragraph 86). Sinnarajah et al fails to disclose the use of the S/N of the pilot signal.

In a similar field of endeavor, McGowan et al disclose that a mobile station compares the signal-to-noise ratio measured for a received signal to the signal-to-noise of a threshold (see paragraph 32), and an initial signal-to-noise threshold value can be transmitted to the mobile station via the BTS (see paragraph 42).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Sinnarajah et al with McGowan et al to include the above

comparing of signal-to-noise ratio at the mobile station and transmitting of a threshold to the user in order to improve the power control as suggested by McGowan et al (see paragraph 9). The resultant combination of Sinnarajah et al and McGowan et al reads on the claimed, "assigning the one of the plurality of user equipments to a broadcast channel if the measured S/N value indicates that the one of the plurality of user equipments is in a first group of the plurality of user equipments; and assigning the one of the plurality of user equipments to a dedicated channel if the measured S/N value indicates that the one of the plurality of user equipments is in a second group of the plurality of user equipments."

Regarding **claim 33**, the combination of Sinnarajah et al and McGowan et al discloses the base station connects the subscriber unit to either a shared broadcast channel or an individual broadcast channel in order to conserve power, for example (see Sinnarajah et al paragraph 86), which reads on the claimed, "if the one of the plurality of user equipments is requesting MBMS services in progress, there is further included a step of assigning the one of the plurality of user equipments to the broadcast channel if the incremental power required for the broadcast channel is less than the power required for a dedicated channel.

Regarding **claim 34**, the combination of Sinnarajah et al and McGowan et al discloses the base station connects the subscriber unit to either a shared broadcast channel or an individual broadcast channel in order to conserve power, for example (see Sinnarajah et al paragraph 86), which reads on the claimed, "if the one of the plurality of user equipments is requesting MBMS services in progress, there is further

included a step of assigning the one of the plurality of user equipments to the dedicated channel if the power required for a dedicated channel is less than incremental power required for the broadcast channel.

Claims 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sinnarajah et al in view of McGowan et al as applied to claim 27 above, and further in view of Chen et al.

Regarding **claim 28**, the combination of Sinnarajah et al and McGowan et al fails to disclose determining by the user equipment whether a timer has expired, and, if the timer is expired, performing the steps of requesting, transmitting, measuring, receiving and comparing.

In a similar field of endeavor, Chen et al discloses a system where an access attempt is performed by sending a series of access probes by the subscriber station, each access probe at a higher power level (see paragraph 49). Also, the quality metric is measured periodically and transmits feedback (see paragraphs 65-67).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify the combination of Sinnarajah et al and McGowan et al with Chen et al to include the above repeating of the access attempt at a higher power level and quality feedback in order to conserve power by beginning communication at the lowest power level necessary.

Regarding **claim 29**, the combination of Sinnarajah et al, McGowan et al and Chen et al discloses a series of access probes and periodic quality updates, fulfilling the limitation of resetting the timer.

Regarding **claim 30**, Sinnarajah et al fail to expressly disclose if the timer is expired and if the S/N measured by the one user equipment is less than the S/N of the coverage threshold there is further included a step of transmitting the measured S/N of the pilot signal to the RNC.

In a similar field of endeavor, McGowan et al disclose that a mobile station compares the signal-to-noise ratio measured for a received signal to the signal-to-noise of a threshold (see paragraph 32), and an initial signal-to-noise threshold value can be transmitted to the mobile station via the BTS (see paragraph 42).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Sinnarajah et al with McGowan et al to include the above use of signal-to-noise ratio in order to improve the power control as suggested by McGowan et al (see paragraph 9). The combination of Sinnarajah et al and McGowan fails to disclose transmitting the S/N of the pilot signal to the RNC.

In a similar field of endeavor, Chen et al disclose that a control unit may be located at the individual sector or at the controller and determines the transmit level (see paragraph 65) and the quality information may be the signal strength or quality of both the pilot channel and the forward link broadcast channel. The quality is measured periodically, and in one embodiment, the feedback information is sent only if the measured quality metric is not satisfactory (see paragraph 67).

It would have been obvious to a person of ordinary skill in the art at the time of the invention to modify Chen et al to use the signal to interference and noise ratio of the pilot signal in order to use specify the quality metric of the pilot signal to use.

Allowable Subject Matter

Claims 7 and 35 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The closest prior art applied, Chen et al in view of Kitzawa et al and Sinnarajah et al discloses a power control method in a point-to multipoint service (see Chen et al paragraphs 22-23). There may be a field indicating the strength or quality of both the forward link broadcast channel and the pilot channel (see Chen et al paragraph 81). The sector adjusts the forward link shared channel to satisfy the power requirement of the subscriber station which reports the worst forward link quality metric (see Chen et al paragraph 66). A user accesses the system via an access probe, and base stations transmit the received information on a forward shared channel to the users in the group that are assigned to monitor the channel (see Chen et al paragraphs 49-51). Each sector receives feedback information from the member subscriber stations in the sector's coverage area and adjusts the transmit level to ensure that the desired quality of service is delivered to all the member subscriber stations by determining the transmit level, and this can be done by a control unit located at the controller (see Chen et al paragraph 65).

The prior art applied fails to teach, suggest or render obvious determining a number K with the equation specified in the claims.

Response to Arguments

Applicant's arguments with respect to claims 1, 3, 4, 6-14, 23 and 27-35 have been considered but are moot in view of the new ground(s) of rejection.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Andersson et al (US 20030012217A1) disclose channel-type switching to a common channel based on common channel load..

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan J. Fox whose telephone number is (571) 272-7908. The examiner can normally be reached on Monday through Friday 9-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on (571) 272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Bryan Fox
February 13, 2006

Temica M. Beamer
TEMICA BEAMER
PRIMARY EXAMINER
2/16/06